

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 7 -2012

**AN ORDINANCE DECLARING AN EMERGENCY RESULTING FROM TORNADO DAMAGES IN CLARK COUNTY ON MARCH 2, 2012; AUTHORIZING THE DISPOSAL OF DAMAGE DEBRIS AT THE CLARK COUNTY LANDFILL; AND, ESTABLISHING A NON-REVERTING FUND FOR THE DEPOSIT OF FUNDS AND DISBURSEMENT OF COSTS RELATED TO THE EMERGENCY.**

WHEREAS, this Board of Commissioners of Clark County, Indiana (this "Board"), is the executive body of Clark County government pursuant to the provisions of IC 36-2-2-2; and,

WHEREAS, this Board is also the legislative body of Clark County Government pursuant to the provisions of IC 36-1-2-9; and,

WHEREAS, pursuant to the Home Rule provisions of IC 36-1-3, *et seq.*, this Board has authority to exercise all the powers needed for the effective operation of government as to local affairs, subject only to the limitations contained within such statutes; and,

WHEREAS, the Borden, Henryville, Marysville, and Otisco areas of Clark County sustained severe damages to persons and properties from tornados that hit such areas on March 2, 2012; and,

WHEREAS, this Board has identified the need to (i) declare the conditions resulting to such damages to constitute a public emergency, (ii) authorize damage debris to be disposed of at the Clark County Landfill, and (iii) establish a non-reverting fund into which funds can be receipted and costs disbursed related to such emergency conditions, and this Board now adopts this Ordinance for such purposes.

**NOW, THEREFORE, BE IT ORDAINED** by this Board of Clark County Commissioners as follows:

1. Declaration of Emergency. This Board hereby declares the conditions resulting in severe damages to persons and properties from the tornados that struck the Borden, Henryville, Marysville, and Otisco areas of Clark County, Indiana, to constitute an emergency situation that demand immediate action. This declaration shall be sufficient to permit expenditures from the Clark County Cumulative Development Fund on subsequent approval by this Board without necessity of appropriation in accordance with IND. CODE § 36-9-14.5-8(c).

2. Establishment of 2012 Tornado Emergency Response Fund. The *2012 Tornado Emergency Response Fund* (the "Fund") is hereby established as a non-reverting fund to be administered and maintained by the Clark County Auditor. The Fund shall exist until such time as all funds deposited from federal, state, and private sources for the purpose of defraying the costs of emergency response to the 2012 tornado damage are fully disbursed or transferred on subsequent approval of this Board, at which time the fund shall automatically terminate.

3. Management and Accounting for the Fund. The Clark County Auditor is hereby directed to maintain and manage accurate accounting information regarding the receipts, expenditures, and balances of the Fund.

4. Deposits into the Fund. All reimbursements, donations, and/or other proceeds related to the 2012 tornado damage emergency response costs shall be deposited into the Fund. This Board further authorizes the Auditor to take the actions necessary to authorize and enable the County Council to consider and approve an additional appropriation of at least Three Hundred Thousand Dollars (\$300,000.00) into the Fund from sources identified by the County Council in the exercise of its discretion, and this Board strongly recommends that the County

Council approve and implement such additional appropriation in effort to enable addressing the significant emergency needs of many Clark County residents.

5. Authorization for Disposal of Tornado Damage Debris. Notwithstanding any federal, state, or local law, rule, or regulation to the contrary, this Board hereby authorizes the disposal of any and all debris resulting from the tornado damages on March 2, 2012, into the Clark County Landfill, subject to the payment of appropriate disposal fees. Unless authorized in writing by this Board's representatives, all tornado damage debris from public rights-of-way, regulated streams, or other areas under the control and jurisdiction of this Board shall only be disposed of at one of the following locations:

a. The municipal solid waste landfill operated as the Clark-Floyd Counties Landfill, located at 14304 State Road 60, Borden, Indiana; or,

b. The composting facility owned and operated by Earth First of Kentuckiana, Inc., located at 5511 Highway 403, Charlestown, Indiana.

c. The wood chipping facility owned and operated by Koetter & Smith, Inc., 8991 Louis Smith Road, Borden, Indiana.

6. Purposes of Permitted Expenditures from the Fund. This Board shall be entitled to authorize and make expenditures from the Fund as deemed necessary to defray the emergency response costs arising from tornado damage in the affected areas, including without limitation, the excavation, removal, and disposal of debris from public and private properties, subject only to appropriation by the County Council. No County warrants are authorized to be issued for expenditures from the Fund for payment of any monies except upon approval of a claim by this Board and in accordance with the terms of this Ordinance. Nothing in this Ordinance is intended to alter any legal requirement for appropriation of funds by the County Council.

7. Authorization of Emergency Procurement Procedures. The Board hereby authorizes the utilization of emergency procurement procedures for contractors and consultants in accordance with the provisions of IND. CODE § 36-1-12-9 and applicable FEMA regulations.


8. Effective Date of Ordinance. This Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this 7<sup>th</sup> day of March, 2012.

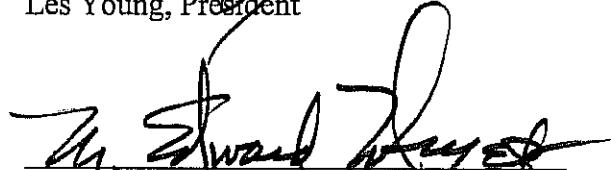
*Members voting "NO":*

*Members voting "YES":*

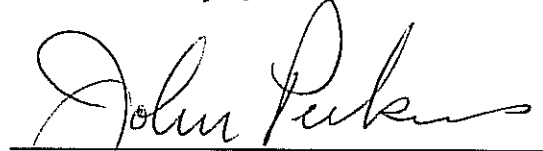
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Les Young, President

  
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Les Young, President


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M. Edward Meyer, Commissioner

  
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John D. Perkins, Commissioner

  
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*Attested by:*

  
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R. Monty Snelling, Clark County Auditor